

1 Q. Tell me briefly your educational
2 background.

3 A. I have a four-year degree in
4 psychology, and I have twenty-eight years
5 experience in the industry, approximately
6 twenty-eight.

7 Q. Thank you. Are you an officer of
8 Greater Lebanon Hotel Enterprises, Inc.?

9 A. I am the general manager of the hotel
10 and, in addition to that, I serve on the board of
11 directors. I am not, quote/unquote, an officer.

12 Q. How many members are there to the board
13 of directors?

14 A. Fifteen.

15 Q. And you're one of fifteen; is that
16 correct?

17 A. Yes.

18 Q. Do those directors, to your knowledge,
19 reside in or around the Lebanon/Lancaster area?

20 A. Yes.

21 Q. Are you a stockholder in Greater
22 Lebanon Hotel Enterprises, Inc.?

23 A. Yes.

24 Q. First, how many officers are there in
25 Greater Lebanon Hotel Enterprises?

1 A. Basically, we combine secretary and
2 treasurer -- We have basically two. The president
3 and secretary-treasurer are combined now, so,
4 basically, two.

5 Q. Is there a vice-president?

6 A. Excuse me, and vice-president, yes, so
7 there would be three.

8 Q. There are three officers?

9 A. Basically, three, yes.

10 Q. Do those persons reside in the
11 Lebanon/Lancaster area?

12 A. Yes.

13 Q. And you are a stockholder, also, you
14 said, of Greater Lebanon Hotel Enterprises, Inc.?

15 A. I did say, yes.

16 Q. And how many stockholders are there?

17 A. Approximately twelve hundred.

18 Q. Twelve hundred. I want to ask you
19 about paragraph two, if I could, of your affidavit,
20 Mr. March.

21 You see at the beginning of paragraph
22 two, it says the very first words: To the best of
23 my recollection. Do you see that?

24 A. Yes, I do.

25 Q. Can you tell me: Why were those words

1 placed in there? Can you tell me: The words, to
2 the best of my recollection?

3 A. Because if you read the next sentence,
4 I was contacted either by telephone or in person,
5 so I'm taking to my best -- I know I was contacted
6 for certainty, but to the best of my recollection,
7 I don't know for sure if it was someone by
8 telephone or somebody in person. It was three and
9 a half years ago.

10 Q. Did you keep notes of that
11 conversation?

12 A. No, I did not, to my knowledge.

13 Q. Now, when you say to your knowledge,
14 what do you mean, to your knowledge?

15 A. I cannot find any physical material in
16 my office relating to this visit or telephone call.

17 Q. Do you have a recollection, sir, of
18 taking notes of that conversation?

19 A. No.

20 Q. Is it your practice to take notes or
21 not to take notes when you have a conversation such
22 as the one that's described in paragraph two?

23 A. Depends on the set of circumstances.

24 Q. And what do you mean by that?

25 A. These particular people, when they made

1 contact, in person or the telephone, I remember
2 were making an inquiry and left me with the
3 impression that as soon as they designed this tower
4 and the implementation of the height, the base,
5 whatever it is, they would get back to me with the
6 information for a more concrete, confirmed stand on
7 my behalf, as the manager of the Lebanon Quality
8 Inn, to assure them we would house this facility on
9 the roof of the hotel.

10 Q. Now, is this the kind of a conversation
11 that you would ordinarily take notes of or not?

12 A. I would not -- Sometimes I would,
13 sometimes I would not. I stated that earlier.

14 Q. And you can't recall whether or not you
15 took notes?

16 A. I can't recall, no.

17 Q. Did you discuss or report this
18 conversation with anybody in the world?

19 A. Yes.

20 Q. To whom?

21 A. My maintenance chief at that time, Don
22 Yordy.

23 Q. And you have a specific recollection of
24 talking to Mr. Yordy?

25 A. Yes.

1 Q. What did you tell him?

2 A. I simply told him that these gentlemen

3 from this company -- I gave him the company name --

4 will probably, someday in the immediate future --

5 This was right after the event that I either met or

6 talked with them -- would probably be making

7 contact with him to go on top of the roof, and that

8 he -- You need a key to get through a certain door

9 to get on top of the roof, so you need to go

10 through someone who will have access to that key.

11 I appointed Don Yordy, the maintenance

12 chief, as the person to be contacted when their

13 engineers would have an opportunity to canvass our

14 facilities.

15 Q. Now, I want to ask you about paragraph

16 four of your affidavit.

17 You stated there that you believe that

18 shortly after our conversation either the caller or

19 someone else on his behalf visited the hotel to

20 examine the roof.

21 What's the basis for your belief

22 expressed in paragraph four? Or what was the basis

23 for your belief?

24 A. Just my memory, my recall that somebody

25 did come.

1 Q. You saw someone come?

2 A. I, personally, don't remember someone

3 coming, but I remember Mr. Yordy sharing

4 information with me that people were on the

5 premises and did, in fact, go up to the roof to

6 explore the possibility of, you know, fulfilling

7 their requirements.

8 Q. What's the basis for the statement that

9 either the caller or someone on his behalf visited

10 the hotel?

11 A. What number are you looking at, sir?

12 Q. Paragraph four, I'm sorry.

13 A. It would -- What I am saying is the

14 person I made contact with said that they would

15 have their engineer come in and check the

16 facilities. That's why I made that statement.

17 Q. What's the basis of your statements

18 that either the caller or someone on his behalf

19 visited the hotel?

20 A. You mean to check the roof?

21 Q. Yes. What's the basis of that? What

22 was the basis of that statement? How did you know

23 that, when you stated that in paragraph four?

24 A. The question is not clear.

25 Q. What was your basis for stating what

1 you stated in paragraph four?

2 A. To clarify that after my initial
3 contact with the person making the initial inquiry,
4 to the best of my recollection there was a
5 follow-up visit, and during my initial contact they
6 said that they would probably have their engineer
7 come out and check the facilities.

8 Whether that person came with the
9 engineer, I don't know.

10 If it was one person or ten people, I
11 don't know.

12 Q. You don't know anything about that,
13 personally, correct?

14 A. No, that's right.

15 Q. Because you weren't there?

16 A. That's correct.

17 Q. So you were relying on what someone
18 told you?

19 A. My maintenance chief.

20 Q. That's that gentleman's name you have
21 already put in the record?

22 A. Don Yordy.

23 Q. So he told you that?

24 A. Yes.

25 Q. And that's the basis for the

1 information provided in paragraph four?

2 A. Yes.

3 Q. And what's the basis for the word, you
4 used the word: Shortly?

5 Strike that. First of all, what did
6 you mean by shortly when you used it in paragraph
7 four?

8 A. Shortly meaning a time period, a span
9 of time.

10 Q. What does shortly mean.

11 A. It did not go into four years.

12 Q. Four months?

13 A. I would say within six months, it is my
14 recollection.

15 Q. Now, when you say -- So shortly means
16 about six months?

17 A. I would guess. Looking back, '89, '90,
18 '91, '92 - Looking back four and a half years -- I
19 believe it's four and a half years -- shortly in
20 the span of time could have been, at this point, a
21 year later in proximity, to my knowledge.

22 If you were asking me, now, six months
23 later, I could put it in better terms for you?

24 Again, my interest in this is very
25 minimal. The importance in this is extremely

1 minimal, so during the course of meeting with these
2 people, during the course of the visitation for the
3 roof, it was all very insignificant. It was up to
4 them to decide if they wanted to select our site.

5 Q. I understand that.

6 A. I did not sign a contract. I did not
7 engage in any confirmed agreement, and they were
8 very vague on their requirements at the time.

9 The reason of the visit was to see if
10 things would materialize for them. I remember that
11 vividly: Would we be a potential site in this
12 Valley of Lebanon. Period.

13 Q. I understand.

14 A. And that's why I did not make discrete
15 notes and have documentation. It was so vague that
16 they were going to get back to me with the facts,
17 with the drawings and everything, which they never
18 did.

19 Q. I understand that, and I appreciate
20 what you are telling me. I just want to ask you
21 another question, the word, shortly; is that Mr.
22 Holt's word or your word?

23 A. That's my word.

24 Q. So you told him that shortly after the
25 conversation, and that's why you used the word,

1 shortly, to Mr. Holt, and that's why he put it in
2 paragraph four?

3 A. That's correct.

4 Q. And so you said to Mr. Holt: Shortly
5 after the conversation, the caller, or someone on
6 his behalf, visited the hotel?

7 A. Yes, I did.

8 Q. And when you told Mr. Holt the word
9 shortly, I want to make clear, I don't quite
10 understand. What did you mean by shortly?

11 A. Meaning that it did not go into four
12 years.

13 Q. I understand. Now, I want to turn to
14 paragraph five, and Mr. March, I want you to know I
15 appreciate your patience, and I am trying to get
16 you out of here as fast as I can.

17 You state there: I recently have been
18 shown the engineering sketch. Did you see that?

19 A. Uh-huh.

20 Q. When were you shown the engineering
21 sketch?

22 A. It was mailed to me by Mr. Holt.

23 Q. I say when.

24 A. Oh, when?

25 Q. Yes. You signed this declaration on

1 the 7th of May, 1993.

2 A. It would have been prior to this May
3 7th, 1993.

4 Q. Do you remember when?

5 A. I would say probably several weeks
6 before. Guesstimate.

7 Q. Would looking at a calendar help your
8 recollection?

9 A. No.

10 Q. Could it have been three or four months
11 before?

12 A. No.

13 Q. Two months?

14 A. Possibly, but doubtful. It all came
15 about in a very compacted, short time period.

16 Q. You say: I have been shown the sketch.
17 How were you shown it?

18 A. It was sent to me in the mail by Mr.
19 Holt.

20 Q. And that's the sketch that's set forth
21 in exhibit B. I want you to look at exhibit B to
22 make sure that that's the same sketch, if you can
23 recall.

24 A. To the best of my knowledge, that's the
25 same sketch, yes.

1 Q. Now, you state: I understand that
2 Raystay submitted this sketch to the FCC.
3 Do you see that in the next sentence,
4 paragraph five? I'm sorry if I am confusing you.
5 A. No, that's fine.
6 Q. The second sentence: I understand that
7 Raystay submitted --
8 A. Yes, I see that.
9 Q. What was the basis of your
10 understanding on that point, or how did you arrive
11 at that understanding?
12 A. Through my conversation with Mr. Holt.
13 Q. Now, I want you to look at paragraph
14 six of your declaration, your affidavit. Do you
15 see the words: To the best of my knowledge and
16 belief, line one, two, three, four, five?
17 A. Uh-huh.
18 Q. Are those words that you ordinarily
19 use?
20 A. To the best of my knowledge and belief.
21 Q. Yes.
22 A. Yes, sir.
23 Q. Those are words that you use in normal
24 conversation?
25 A. Any time I'm put against the wall as

1 far as supplying facts, and if I don't know them,
2 yes, I do use these words.

3 Q. So those were your words, not Mr.
4 Holt's words?

5 A. That's correct.

6 Q. And when you received the declaration
7 from Mr. Holt, the words, to the best of my
8 knowledge and belief, were present?

9 A. That's correct.

10 Q. Did you tell him to put those words in?

11 A. Yes, I did.

12 Q. I see. What did you tell Mr. Holt
13 about what he should put in the affidavit?

14 A. Basically -- I don't understand the
15 question.

16 Q. Well, did you tell him: I want you to
17 put in my affidavit to the best of my knowledge and
18 belief two assertions made in that statement are
19 untrue?

20 A. Yes.

21 Q. And since this is your term, to the
22 best of my knowledge and belief, what do you mean,
23 to the best of my knowledge and belief to mean?

24 A. Meaning there is reasonable doubt.

25 Q. I want to make sure I understand you.

1 There is reasonable doubt; explain that to me.

2 A. In what context? Concerning what
3 topic?

4 Q. Well, the context of the way you used
5 it in paragraph six. What's the reasonable doubt?

6 A. Let me find it.

7 Q. Want me to help you find it?

8 A. Let me find appendix C.

9 Q. Want me to help you find it? Look at
10 the beginning, sir.

11 A. No, I'm looking for appendix C.

12 MR. KRAUSE: No, that's the last part.

13 THE WITNESS: All right --

14 BY MR. COHEN:

15 Q. My question is: When you used the
16 words to the best of my knowledge and belief in
17 paragraph six, what did you mean by to the best of
18 my knowledge and belief?

19 A. Well, I have to refer that now to what
20 comments I made.

21 Q. Of course, and I want you to take as
22 much time as you need.

23 A. And I am applying that to the first
24 comment that I made.

25 Q. Take as much time as you need.

1 A. I'm saying the first assertion is that
2 Raystay is referring to negotiations -- and I'm
3 reading to myself out loud, with owners of the site
4 specified in the applications -- So I'm saying
5 there: To the best of my knowledge and belief I do
6 not have any documents that I signed that was a
7 contract or gave them any reasonable belief that
8 they had a contract, or would have a contract, to
9 install this antenna.

10 Now, if somebody pulls out a contract
11 out of their hat in this room, and my signature is
12 on it, that is where the statement, to the best of
13 my knowledge and belief --

14 I would not put my life on the line and
15 say I didn't sign that; that, in fact, is my
16 signature. That is why I am saying it.

17 Q. Now, what about oral conversations?
18 Would you put your life on the line concerning oral
19 conversations?

20 You said -- Let me ask you another.
21 That's a poorly-phrased question.

22 Are you certain that there were no
23 conversations with representatives of the owners of
24 the antenna site specified in the applications, and
25 I quoting now from your affidavit, paragraph six --

1 Strike that. That's confusing.

2 Are you certain there were no oral-
3 type discussions with representatives of the hotel
4 by representatives of Raystay?

5 A. To my knowledge, I made initial contact
6 with a person, or a phone call. To my knowledge,
7 there was a follow-up by the engineer to look at
8 the roof.

9 To the best of my knowledge, that was
10 the last conversation I ever had concerning this
11 topic. I don't know if that answers your question
12 or not.

13 Q. And tell me again now. I'm not sure.
14 What did you mean by the words, best of my
15 knowledge and belief, as you used them in paragraph
16 six?

17 A. All right. The potential would exist
18 that I had a short telephone conversation with
19 somebody after the initial contact, after the
20 visitation. I don't recall it, but I'm not denying
21 the possibility doesn't exist.

22 Now, as I stated, I brought these
23 telephone records because there is a question as to
24 whether or not I had a conversation in October,
25 1991.

1 I went through every telephone call.

2 Q. Is there a possibility that someone
3 else at the hotel could have had a conversation?

4 A. Only to take a message. No
5 conversation as far as feedback, any intelligent
6 dialogue concerning this topic.

7 Q. And how are you so sure of that?

8 A. I have been there, in my ninth year. I
9 don't delegate that responsibility to anyone.

10 Q. What management-type people do you
11 have -- did you have employed at the hotel in
12 October of -- in December of 1991, there or abouts?

13 Do you have a management staff?

14 A. Yes.

15 Q. How many people are part of the
16 management staff?

17 A. Roughly, ten.

18 Q. And are those persons called managers?

19 A. Department heads.

20 Q. Department heads. You have ten
21 departments?

22 A. Other than myself, I have roughly ten
23 department heads, yes.

24 Q. I'm not interested in the names of the
25 persons, but can you tell me what the names of the

1 departments were as of December, 1991?

2 A. The same as they are now. The chef. I
3 have a food and beverage director. I have an
4 executive housekeeper. I have a personnel
5 director. I have a controller. I have a beverage
6 manager. I have a -- I did have; I don't have any
7 longer, a director of sales.

8 Q. You did have meaning --

9 A. I did away with that position.

10 Q. When?

11 A. About three months ago. First time
12 since. That's seven. I have my administrative
13 assistant, who I consider a department head,
14 speaking on my behalf, take care of my problems.

15 Then we have an assistant chef or sous
16 chef, which is a department head, and an assistant
17 housekeeper, which is also a department head.

18 Q. Now, in terms of the titles of people,
19 you will have to excuse my ignorance of your hotel.
20 Does anybody have a title of not general manager
21 but of manager at the hotel?

22 A. I forgot the front desk manager on that
23 management list.

24 No one wears the title, manager, per
25 se. No.

1 Q. But a front desk manager, you said a
2 second ago?

3 A. That's the guest services director. I
4 went back to the old school. Okay, he's the guest
5 services director.

6 Q. Is there any --

7 A. My assistant -- Okay, I have an
8 assistant. The food and beverage director on the
9 weekends, Saturday and Sunday, acts as the
10 assistant general manager.

11 During the midweek, he's the director
12 of food and beverage.

13 If I would be off, he would be on. My
14 secretary speaks on my behalf and functions on my
15 behalf, not the food and beverage director.

16 Q. So what you are saying is when you're
17 not there your secretary functions as your
18 alter-ego; is that what you are saying?

19 A. That's a fact.

20 Q. Again, excuse my ignorance of the
21 terminology used in your business. Do people
22 interchange the titles, manager and department
23 head?

24 A. The answer is yes. The old school
25 still applies in many people's minds, the same as a

1 garbage collector twenty years ago today is a
2 sanitation engineer.

3 Q. That's right. Everybody's an
4 executive.

5 Now, to bring you back to December of
6 1991, okay; is it possible that to your
7 knowledge -- Strike that.

8 Is it possible in December of 1991 that
9 someone could have talked with any one of the
10 department heads or managers that you have
11 described about -- and I am not talking about the
12 words -- lease negotiations, just talked about
13 using the hotel roof for a transmitter or an
14 antenna?

15 A. Certainly, anyone can come into the
16 hotel and talk to any of these people at any time
17 they are on the property.

18 Now, the question is: Would these
19 people feel comfortable talking to somebody about
20 this topic? Never, no.

21 Q. Well, do you know of your own personal
22 knowledge that none of these people who were
23 managers or department heads had any kind of -- I'm
24 not talking about negotiations -- had any kind of
25 conversation with anybody in December of 1991

1 concerning using the roof for a transmitter?

2 A. Well, you take an average forty-hour
3 workweek, multiply that by these eleven people,
4 that equates to a certain amount of hours in a
5 week.

6 I cannot be held accountable for every
7 second for everybody.

8 Q. I understand that. Have you asked, and
9 it would astonish me if you did -- You haven't
10 asked each and every one of these persons whether
11 they had any conversation in this matter?

12 A. No. The normal pattern of the hotel if
13 a scenario like this materialized, they would leave
14 a note for me, personally contact me.

15 They would never -- I shouldn't say
16 never, but then they have absolutely no authority
17 whatsoever to get involved in this area.

18 Q. Now, when you say authority, what I
19 understand, no authority to bind the hotel; that's
20 what you mean by authority?

21 A. Verbally or written.

22 Q. To commit?

23 A. That's correct.

24 Q. But that's not the same as talking
25 about something, is it?

1 A. No, it's not.

2 Q. What you are saying is nobody had the
3 authority to commit the company but you? That's
4 what you are saying?

5 A. But me. And in some cases even I don't
6 have that authority.

7 Q. But to be fair, you don't know, or you
8 haven't checked, as to whether any of these
9 department heads or managers had a conversation
10 about this subject, that is the subject of mounting
11 a transmitter on the hotel's roof on or about
12 December of 1991?

13 A. The only person I asked is the existing
14 maintenance chief, who at that point in time,
15 before this conversation was initiated, was a
16 maintenance worker.

17 Q. Sure.

18 A. That employee today is the maintenance
19 chief. Don Yordy went on to bigger and better
20 things.

21 And I did sit down and talk to him at
22 length about this to see if he has any recall at
23 all about anybody ever coming in.

24 Q. Did you ask him about any telephone
25 calls?

1 A. I'm sorry?

2 Q. Did you ask him about any telephone
3 calls?

4 A. Well, no, I didn't ask him about any
5 telephone calls. But he said to me with certainty:
6 He absolutely has no knowledge about this topic
7 whatsoever as far as ever seeing anybody, showing
8 anybody, discussing anything with anybody.

9 I didn't specifically say phone calls,
10 but he doesn't have any knowledge of anybody being
11 on site or any knowledge of this topic.

12 Q. But you haven't queried your managers
13 or department heads about telephone conversations?

14 A. At large, no.

15 Q. Unintentionally, I may have -- I gave
16 you some inaccurate information, and I want to make
17 you aware of it.

18 I was talking about December, but the
19 phone conversation, if it occurred, was in October.

20 I take it if I put the question or the
21 question as October and asked you the same
22 questions, they would be the same?

23 A. I knew you made a mistake, and I put it
24 in the proper context.

25 Q. Thank you. You're a better lawyer than

1 I am. So you knew I was talking about October?

2 A. Yes, sir.

3 Q. Thank you. You will be pleased to know
4 I just have a very few more questions, Mr. March.
5 You will be out of here by lunch for sure.

6 Will you turn to page four, please, of
7 your affidavit?

8 When I say you'll be out of here, as
9 far as I'm concerned. I can't control these other
10 guys.

11 Look on page four where it states: I
12 have principal supervisory responsibility.

13 A. Uh-huh, yes.

14 Q. The word principal, what does that word
15 mean to you? Strike that.

16 What does the word mean as used in
17 paragraph six of your affidavit?

18 A. Page four, as I have --

19 Q. You're talking about the sentence: I
20 have principal supervisory responsibility.

21 A. Yes.

22 Q. What does the word, principal, mean?

23 A. Well, in the context of the ninety
24 employees that work within the hotel parameters on
25 the hotel payroll, non-board of director personnel

1 or officer personnel, I am the principal
2 supervisor.

3 Q. There are other supervisors, and you
4 have described earlier who those supervisors are,
5 correct?

6 A. That's correct.

7 Q. Do any of the board members have any
8 kind of ongoing day-to-day responsibility at the
9 hotel?

10 A. We have committees, yes.

11 Q. You have committees. Do they have
12 duties, day-to-day type -- Do they have any
13 management duties?

14 A. No.

15 Q. None of the directors then have any
16 management duties, is that right?

17 A. Day-to-day operational management
18 duties, no.

19 Q. Any management duties of any kind?

20 A. Not tied in with the daily management
21 of the hotel, no.

22 Q. What about in the weekly or monthly
23 management, just the management? Delete the word,
24 daily.

25 A. We have a monthly meeting.